

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JOSE PAGAN,

Plaintiff,

- v -

Civ. No. 9:18-CV-1094
(TJM/DJS)

DONALD VENETTOZZI, *Director of Special Housing
Units (DOCCS), Individually and in his official
capacity, et al.,*

Defendants.

APPEARANCES:

OF COUNSEL:

JOSE PAGAN
Plaintiff, *Pro Se*
New Rochelle, New York 10801

HON. LETITIA JAMES
Attorney General of the State of New York
Attorney for Defendants
The Capitol
Albany, New York 12224

JOSHUA McMAHON, ESQ.
Assistant Attorney General

DANIEL J. STEWART
United States Magistrate Judge

ORDER

Defendants, through their counsel, have moved for an extension of the discovery deadlines and for an Order directing Plaintiff to attend and participate in a deposition. Dkt. No. 44. Defendants previously noticed Plaintiff for a deposition and requested that Plaintiff provide contact information for purposes of conducting the deposition remotely. *Id.* Plaintiff did not respond to this request. *Id.* This Court scheduled a telephone

conference to address this matter. That conference was held December 2, 2020, but Plaintiff failed to attend.¹

Plaintiff has an obligation to participate in discovery including attending a deposition and answering appropriate questions. Plaintiff has previously been advised that “[t]he failure of the plaintiff(s) to attend, be sworn, and answer appropriate questions may result in sanctions, including dismissal of the action pursuant to Fed. R. Civ. P. 37.” Dkt. No. 39 at p. 5. His failure to cooperate in the scheduling of the deposition similarly could result in the imposition of sanctions.

The Court orders that Plaintiff appear for a deposition on January 5, 2021 at 10 a.m. In light of the circumstances surrounding the Covid-19 pandemic, the Court further directs that the deposition take place by way of a remote audio or video conference service selected by Defendants. **To facilitate scheduling the deposition, the Court further orders that Plaintiff provide Defendants’ counsel with a telephone number and/or e-mail address at which he can be reached for purposes of the deposition on or before December 30, 2020.**

Plaintiff is again advised that his failure to attend, be sworn and answer appropriate questions at the deposition ordered by the Court could result in sanctions being imposed under Fed. R. Civ. P. 37, including the sanction of the dismissal of his Complaint.

¹ Notice of the conference was mailed to the address on record for Plaintiff and it was not returned to the Court as undeliverable or otherwise.

In the event that Plaintiff fails to comply with the provisions of this Order, Defendants are granted permission to file an appropriate motion for sanctions.

Plaintiff is reminded of his obligation to provide the Court and Defendants' counsel notice of any change in his address. The discovery deadline in this case is extended to January 5, 2021 solely for purposes of completing Plaintiff's deposition.

The deadline for filing dispositive motions is extended to February 5, 2021.

IT IS SO ORDERED.

Date: December 3, 2020
Albany, New York



Daniel J. Stewart
U.S. Magistrate Judge